

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

**FILE:** B-221985 **DATE:** March 21, 1986  
**MATTER OF:** Carmel Marina Corporation

**DIGEST:**

Protest that it was improper to compete procurement and that award should have been made to protester on a sole-source basis is dismissed as untimely where the protest against the alleged solicitation impropriety was not filed until after the closing date for receipt of proposals.

Carmel Marina Corporation (Carmel) protests against request for proposals (RFP) No. DAKF03-86-R-0301 issued by the Department of the Army, Fort Ord, California (Army).

We dismiss the protest in accordance with 4 C.F.R. § 21.3(f) (1985) of our Bid Protest Regulations, which provide that, where the propriety of a dismissal becomes clear only after information is provided by the contracting agency, the protest will be dismissed at that time.

The RFP is for refuse collection services. Basically, Carmel contends that under our decision in Monterey City Disposal Service, Inc., B-218624, B-218880, Sept. 3, 1985, 85-2 C.P.D. ¶ 261; affirmed, B-218624.2, B-218880.2, Sept. 19, 1985, 85-2 C.P.D. ¶ 306, interpreting 42 U.S.C. § 6961 (1982), the Army is required to award Carmel a sole-source contract for the work and that it was improper to compete the requirement. Carmel is protesting an alleged impropriety apparent on the face of the RFP.


The Army reports that January 23, 1986, was the closing date for receipt of initial proposals. It was not until January 27, 1986, that Carmel first objected to the competitive nature of the procurement. Our Bid Protest Regulations require that protests based upon alleged improprieties in an RFP which are apparent prior to the closing date for receipt of initial proposals be filed by the closing date. 4 C.F.R. § 21.2(a)(1) (1985). Consequently, Carmel was required to protest the allegedly defective RFP prior to the January 23, 1986, closing date for submission of initial offers. Since Carmel's protest was filed after that date,

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it is untimely and will not be considered. Travenol  
Laboratories, Inc., B-220823, Oct. 23, 1985, 85-2 C.P.D.  
¶ 453.



Robert M. Strong  
Deputy Associate  
General Counsel